

Remarks

The Office action mailed December 6, 2004, has been reviewed and carefully considered. The rejections are traversed for the reasons set forth below.

Claims 29-38, 47 and 55-61 have been rejected under §112, second paragraph. It is asserted in the Office action that S-O or S-S groups in the seven-membered ring are not stable groups, and that clarification is required as to how one skilled in the art can make and use these linkages.

This is a rejection under §112, second paragraph. However, there is no lack of clarity regarding what the formula with W-Z structure encompasses. As presently recited, the W-Z structure can cover S-O or S-S as obviously recognizable since the Office action specifically refers to S-O and S-S as possible constructs for the W-Z structure. Thus, a §112, second paragraph, rejection would appear to be misplaced and thus should be withdrawn.

The use of the phrase “can make and use” calls into mind the enablement requirement of §112, first paragraph, although no rejection has been made under this section of §112. In this context, applicants note that the burden is on the examiner to provide reasoning or evidence supporting a lack of enablement assertion (see MPEP §2164.04). The examiner asserts that the S-O or S-S groups are not stable, but has offered no reasoning or evidence supporting this assertion. Absent such reasoning or evidence, a §112, first paragraph, rejection would be untenable.


Claims 35 and 60 also have been rejected under §112, second paragraph. Claims 35 and 60 have now been amended to correct the inadvertent error in reciting the formula so that claims 35 and 60 find correct antecedent basis in claims 30 and 55, respectively.

It is respectfully submitted that the present claims are in condition for allowance. Should there be any questions regarding this application, Examiner Kifle is invited to contact the undersigned attorney at the telephone number shown below.

Respectfully submitted,

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